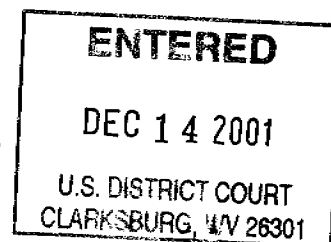


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT WHEELING



HARRY MOORE,  
Individually and on behalf of others  
Similarly situated,

Plaintiff,

v.

Civil Action No. 5:01-CV-120  
(Hon. Irene M. Keeley, District Judge)

PHILIP MORRIS COMPANIES, INC.,  
a corporation, and  
PHILIP MORRIS INCORPORATED,  
a corporation,

Defendants.

**STIPULATION AND ORDER FOR DISMISSAL OF DEFENDANT  
PHILIP MORRIS COMPANIES INC. WITHOUT PREJUDICE**

WHEREAS, the Complaint filed in this action names as Defendants Philip Morris Companies Inc. and Philip Morris Incorporated, and

WHEREAS, Philip Morris Companies Inc. has filed an answer to the Complaint alleging as an affirmative defense that the Court lacks personal jurisdiction over Philip Morris Companies Inc., and

WHEREAS, counsel for Plaintiff and for Defendant Philip Morris Companies Inc. have agreed, subject to the terms of this Stipulation and Order, that the Complaint against Defendant Philip Morris Companies Inc. shall be dismissed without prejudice,

NOW THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The Complaint herein, and all claims that are or could have been asserted herein by the Plaintiff, against Defendant Philip Morris Companies Inc. shall be dismissed without prejudice and without costs.

2. The statute of limitations and any timing-based defenses, if any, applicable to any of the claims in the Complaint against Defendant Philip Morris Companies Inc. shall be tolled from the date of the dismissal of the Complaint without prejudice pursuant to this Stipulation and Order, up to and including the earlier of the date (i) thirty (30) days after the date upon which discovery in this action is closed, (ii) Philip Morris Companies Inc. is added as a defendant to this action pursuant to the terms of this Stipulation and Order, or (iii) the action is dismissed or judgment has been entered in this action.

3. Plaintiff's counsel may move to amend the Complaint herein to add Philip Morris Companies Inc. as a defendant if Plaintiff's counsel, acting in good faith, believe and allege that they have competent evidence that Philip Morris Companies Inc. is subject to the personal jurisdiction of this Court.

4. Philip Morris Companies Inc. reserves all of its rights and defenses to the claims asserted in the Complaint herein, and in the event that Plaintiff's counsel seeks to amend the Complaint to add Philip Morris Companies Inc. as a defendant, Philip Morris Companies Inc. expressly reserves the right to contest the assertion of personal jurisdiction over it.

5. In the event that Plaintiff's counsel seek to amend the Complaint to add Philip Morris Companies Inc. as a defendant, Philip Morris Companies Inc. and Plaintiff agree that, in connection with any renewed motion by Philip Morris Companies Inc. to dismiss

for lack of personal jurisdiction, the parties may use any documents or deposition testimony obtained in discovery, taken to establish personal jurisdiction over Philip Morris Companies Inc., in the case of Susan Miles v. Philip Morris Companies Inc., Case No. 00-L-112 in the records and files of the Circuit Court, Third Judicial District, Madison County, Illinois (hereinafter the "Miles case"), except discovery deemed "highly confidential information" (as defined in the protective order entered in the Miles case), as if such documents and discovery had been obtained in this case. In that event, Philip Morris Companies Inc. agrees to make a good faith effort to agree with Plaintiff upon the terms of a protective order substantially in the form entered in the Miles case regarding the confidentiality of discovery, and, upon the entry of the protective order, Philip Morris Companies Inc. will further agree to deem such discovery in the Miles case to be produced in this case, subject to the terms of the protective order. Nothing herein shall be deemed to preclude Plaintiff from propounding discovery in this case on the jurisdictional issue or from propounding discovery seeking highly confidential information, and Defendants reserve any objections to any such discovery.

Dated: December 12, 2001

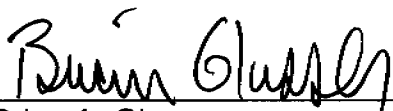
STIPULATED AND AGREED:

PHILIP MORRIS COMPANIES INC.  
Defendant

BY COUNSEL:

Of Counsel:

Martin Glenn  
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Defendant

BY COUNSEL:

Of Counsel:

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for David Thomas  
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HARRY MOORE,  
Individually and on behalf of all others  
similarly situated,

Plaintiff

BY COUNSEL:

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Philadelphia, PA 19103

IT IS SO ORDERED this 14<sup>th</sup> day of December, 2001:

  
Hon. Irene M. Keeley

CERTIFICATE OF SERVICE

I, BRIAN A. GLASSER, HEREBY certify that a true and correct copy of the foregoing has been furnished by regular U.S. Mail delivery on December \_\_, 2001, to the following:

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